

## **SB1328: A FAIRER AND MORE UNIFORM RECALL PROCESS**

### ***SB 1328 limits the window in which signatures may be collected to support a recall petition to avoid interfering with elections***

- 1) NOT within 75 days of a primary election or party nomination process in which the officer is a candidate; and
- 2) If the officer is the winner of the primary election or party nomination process, NOT through the date of the next general election; and
- 3) NOT on the date of any general or special election in which the officer is a candidate; and
- 4) NOT for thirty days after the officer take office if the officer is the winner of a general or special election.

*Current law does provides no guidance on the timing of petition signature collection, so petitions may be circulated any time.*

### ***SB 1328 gives sponsors 90 days to gather petition signatures***

*Under current law, a petition for recall may remain open indefinitely even if supported by few voters.*

### ***SB 1328 requires that the petition have signatures in an amount equal to at least 30% of the total number of votes cast in the last election for the office that the official holds***

*Current law requires that a petition have only a small number of signatures to trigger a recall proceeding: 10% of the number of votes cast in the last election for the office that the official holds. Because local elections may have low turnout, this means that recalls can be initiated by a very small number of voters.*

The changes proposed through SB 1328 are in line with recall petition processes in most other states.

## **SB1431: CLARIFIES THE CONDUCT THAT TRIGGERS RECALL AND THE JUDICIAL PROCEEDINGS TO RESOLVE IT**

***SB 1431 clarifies that an elected official may be subject to recall for negligence only for neglect of a clear ministerial duty of the office, or for misuse or incompetence in the performance of the duties of the office. This approach in line with recommendations of the Boyd-Graves Commission of the Virginia Bar Association.***

*Current law is written so generally that recall can be attempted in response to potential concerns about an official's views or conduct outside the performance of the duties of the office.*

### ***SB 1431 assigns the general registrar responsibility for verifying recall petition signatures.***

### ***SB 1431 assigns Commonwealth Attorney responsibility for reviewing a petition to determine whether it states legally sufficient grounds for recall and for representing the***

**Commonwealth in all judicial proceedings to resolve the petition. If the Commonwealth Attorney is the subject of the petition, the Chief Justice of the Va Supreme Court appoints an attorney to represent the Commonwealth.**

*Under current law, no one is responsible for evaluating the validity of either the signatures shown on a petition or the recall grounds it states. The roles of stakeholders during recall judicial proceedings are unclear, especially if the Commonwealth Attorney is the subject of the recall.*

**SB 1431 clarifies that the court must find that the grounds for recall have been proven by clear and convincing evidence in order to remove the official.**

*Under current law, the standard of proof in a recall proceeding is unclear.*